



General Assembly

January Session, 2001

Amendment

LCO No. 8564

Offered by:

REP. GODFREY, 110th Dist.

REP. CURREY, 10th Dist.

REP. FRITZ, 90th Dist.

To: Subst. Senate Bill No. 1129

File No. 473

Cal. No. 586

(As Amended)

**"AN ACT CONCERNING RIGHTS OF WATER COMPANY
CONSUMERS."**

1 Strike out everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Section 25-32e of the general statutes is repealed and the
4 following is substituted in lieu thereof:

5 (a) If, upon review, investigation or inspection, the Commissioner of
6 Public Health determines that a water company has violated any
7 provision of section 25-32, section 25-32d or any regulation adopted
8 under section 25-32d, or any regulation in the Public Health Code
9 relating to the purity and adequacy of water supplies or to the testing
10 of water supplies or any report of such testing, the commissioner may
11 impose a civil penalty not to exceed five thousand dollars per violation

12 per day upon such water company. Governmental immunity shall not
13 be a defense against the imposition of any civil penalty imposed
14 pursuant to this section. The commissioner shall adopt regulations, in
15 accordance with the provisions of chapter 54, establishing a schedule
16 or schedules of the amounts, or the ranges of amounts, of civil
17 penalties which may be imposed under this section. In adopting such
18 regulations, the commissioner shall consider the size of or the number
19 of persons served by the water company, the level of assessment
20 necessary to insure immediate and continued compliance with such
21 provision, and the character and degree of injury or impairment to or
22 interference with or threat thereof to: (1) The purity of drinking water
23 supplies; (2) the adequacy of drinking water supplies; and (3) the
24 public health, safety or welfare. No such civil penalty may be imposed
25 until the regulations required by this subsection have been adopted.

26 (b) In setting a civil penalty in a particular case, the commissioner
27 shall consider all factors which the commissioner deems relevant,
28 including, but not limited to, the following: (1) The amount of
29 assessment necessary to insure immediate and continued compliance
30 with such provision; (2) the character and degree of impact of the
31 violation on the purity and adequacy of drinking water supplies; (3)
32 whether the water company incurring the civil penalty is taking all
33 feasible steps or procedures necessary or appropriate to comply with
34 such provisions or to correct the violation; (4) any prior violations by
35 such water company of statutes, regulations, orders or permits
36 administered, adopted or issued by the commissioner; (5) the character
37 and degree of injury to, or interference with, public health, safety or
38 welfare which has been or may be caused by such violation; and (6)
39 after the adoption of the federal Safe Drinking Water Act Public
40 Notification Rule pursuant to section 5 of this act, whether the
41 consumers of the water company have been notified of such violation
42 pursuant to such rule.

43 (c) If the commissioner has reason to believe that a violation has
44 occurred, the commissioner may impose a penalty if compliance is not
45 achieved by a specified date and send to the violator, by certified mail,

46 return receipt requested, or personal service, a notice which shall
47 include: (1) A reference to the sections of the statute or regulation
48 involved; (2) a short and plain statement of the matters asserted or
49 charged; (3) a statement of the amount of the civil penalty or penalties
50 to be imposed; (4) the initial date of the imposition of the penalty; and
51 (5) a statement of the party's right to a hearing. The commissioner shall
52 send a copy of such notice to the local director of health in the
53 municipality or municipalities in which such violation occurred or that
54 utilize such water.

55 (d) The civil penalty shall be payable for noncompliance on the date
56 specified in subsection (c) of this section and for each day thereafter
57 until the water company against which the penalty was issued notifies
58 the commissioner that the violation has been corrected. Upon receipt
59 of such notification, the commissioner shall determine whether or not
60 the violation has been corrected and shall notify the water company, in
61 writing, of such determination. The water company may, within
62 twenty days after such notice is sent by the commissioner, request a
63 hearing to contest an adverse determination. If, after such hearing, the
64 commissioner finds that the violation still exists, or if the water
65 company fails to request a hearing, the penalty shall continue in force
66 from the original date of imposition.

67 (e) The water company to which the notice is addressed shall have
68 twenty days from the date of mailing of the notice to make written
69 application to the commissioner for a hearing to contest the imposition
70 of the penalty. The water company shall send a copy of such
71 application to the local director of health in the municipality or
72 municipalities in which such violation occurred or that utilize such
73 water. All hearings under this section shall be conducted pursuant to
74 sections 4-176e to 4-184, inclusive, except that the presiding officer
75 shall automatically grant each local director of health in the
76 municipality or municipalities in which such violation occurred or that
77 utilize such water the right to be heard in the proceeding. Any civil
78 penalty may be mitigated by the commissioner upon such terms and
79 conditions as the commissioner, in the commissioner's discretion,

80 deems proper or necessary upon consideration of the factors set forth
81 in subsection (b) of this section.

82 (f) A final order of the commissioner assessing a civil penalty shall
83 be subject to appeal as set forth in section 4-183 after a hearing before
84 the commissioner pursuant to subsection (e) of this section, except that
85 any such appeal shall be taken to the superior court for the judicial
86 district of New Britain and shall have precedence in the order of trial
87 as provided in section 52-191. Such final order shall not be subject to
88 appeal under any other provision of the general statutes. No challenge
89 to any such final order shall be allowed as to any issue which could
90 have been raised by an appeal of an earlier order, notice, permit, denial
91 or other final decision by the commissioner. The local director of health
92 in the municipality or municipalities in which such violation occurred
93 or that utilize such water for which the order was assessed shall have
94 the right to be heard on such appeal.

95 (g) If any water company fails to pay any civil penalty, the Attorney
96 General, upon request of the commissioner, may bring an action in the
97 superior court for the judicial district of Hartford to obtain
98 enforcement of the penalty by the court. All actions brought by the
99 Attorney General pursuant to the provisions of this section shall have
100 precedence in the order of trial as provided in section 52-191.

101 (h) The provisions of this section are in addition to and not in
102 derogation of any other enforcement provisions of any statute
103 administered by the commissioner. The powers, duties and remedies
104 provided in such other statutes, and the existence of or exercise of any
105 powers, duties or remedies under this section or under such other
106 statute shall not prevent the commissioner from exercising any other
107 powers, duties or remedies available to the commissioner at law or in
108 equity.

109 Sec. 2. Section 25-32g of the general statutes is repealed and the
110 following is substituted in lieu thereof:

111 If the Commissioner of Public Health finds after investigation that

112 any person is causing, engaging in or maintaining, or is about to cause,
113 engage in or maintain, any condition or activity which violates any
114 provision of sections 19a-36 to 19a-39, inclusive, or sections 25-32 to 25-
115 54, inclusive, as amended by this act, or any regulation or permit
116 adopted or issued thereunder and constitutes an immediate threat to
117 the quality or adequacy of any source of water supply, [he] the
118 commissioner may, without prior hearing, issue an order in writing to
119 such person to discontinue, abate, alleviate or correct such condition or
120 activity. Upon receipt of such an order such person shall immediately
121 discontinue, abate, alleviate or correct such condition or activity. The
122 commissioner shall, within ten days after such order, hold a hearing to
123 provide the person an opportunity to be heard and show that such
124 condition, activity or violation does not exist. The local director of
125 health in the municipality or municipalities in which such violation
126 occurred or that utilize such water shall have the right to be heard in
127 such proceeding. Such order shall remain in effect until ten days after
128 the hearing within which time a new decision based on the hearing
129 shall be made.

130 Sec. 3. Section 25-32k of the general statutes is repealed and the
131 following is substituted in lieu thereof:

132 (a) Each water company, as defined in section 25-32a, serving one
133 thousand or more persons or two hundred fifty or more consumers, as
134 defined in section 25-32a, shall annually provide to residential
135 customers, without charge, educational materials or information on (1)
136 water conservation, [and] (2) water supply source protection methods,
137 including methods to reduce contamination, and (3) information
138 developed by the Commissioner of Public Health, pursuant to
139 subsection (b) of this section, on the health effects and sources of lead
140 and copper. Every year each public water company shall provide a
141 copy of these educational materials to the Commissioner of Public
142 Health.

143 (b) The Commissioner of Public Health shall, within available
144 resources, develop, in consultation with public water suppliers, public

145 education materials on health effects and sources of lead and copper,
146 which shall be distributed pursuant to subsection (a) of this section.

147 ~~[(b)]~~ (c) The Commissioner of Public Health may impose a civil
148 penalty on any water company that violates the provisions of this
149 section. In imposing such civil penalty, the commissioner shall comply
150 with the procedures set forth in section 25-32e, as amended by this act,
151 except that the amount shall not exceed five thousand dollars per
152 violation. Each year the company fails to offer educational materials or
153 information on water conservation shall be deemed to be a separate
154 violation.

155 Sec. 4. Subsection (a) of section 25-36 of the general statutes is
156 repealed and the following is substituted in lieu thereof:

157 (a) Except as provided otherwise in this part, any person or
158 corporation aggrieved by any order of the Department of Public
159 Health made under the provisions of part III of this chapter, may
160 appeal therefrom in accordance with the provisions of section 4-183,
161 except venue shall be in the judicial district in which the source of the
162 water or ice supply is located. If such source is located in more than
163 one judicial district, the appeal shall be taken to the court for that
164 judicial district containing the part of such source nearest the mouth of
165 the stream or river forming the main portion of the source of supply. If
166 a water company is subject to such an order and such water company
167 takes an appeal in accordance with this subsection, the water company
168 shall provide notice of such appeal to the local director of health in the
169 municipality or municipalities in which a violation occurred or that
170 utilize such water, and such local director of health shall have the right
171 to be heard in such appeal. Each order of the Department of Public
172 Health issued under the foregoing provisions to any person or
173 corporation shall specify the time within which such person or
174 corporation shall comply with the terms thereof. If such person or
175 corporation fails to comply with the terms of such order and no appeal
176 is taken therefrom, the state's attorney for the judicial district of
177 Hartford shall bring a complaint against such person or corporation to

178 the superior court for said judicial district.

179 Sec. 5. The Commissioner of Public Health shall, on or before
180 December 31, 2001, adopt, pursuant to chapter 54 of the general
181 statutes, regulations (1) to amend subparagraph (F) of subdivision (6)
182 of subsection (j) of section 19-13-B102 of the Regulations of Connecticut
183 State Agencies to require a public education program for any system
184 that exceeds the copper action level established in subparagraph (B) of
185 subdivision (6) of subsection (j) of section 19-13-B102 of the
186 Regulations of Connecticut State Agencies; and (2) to adopt the
187 provisions of 40 CFR Parts 9, 141, 142, and 143, the federal Safe
188 Drinking Water Act Public Notification Rule, in the Regulations of
189 Connecticut State Agencies.

190 Sec. 6. This act shall take effect from its passage, except that sections
191 1 to 4, inclusive, shall take effect October 1, 2001."